

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting December 14, 2011
Location6900 Atmore Drive
Richmond, Virginia
Presiding.....Peter G. Decker, III, Chairman
Present Cynthia M. Alksne
Jonathan T. Blank
Kurt A. Boshart
Felipe Q. Cabacoy
Linda D. Curtis
William E. Osborne
Reverend Anthony C. Paige
B. A. Washington, Sr.

1:00 p.m., Wednesday, December 14, 2011
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. Chairman Decker welcomed attendees, thanked everyone for coming and asked that the Board Roll Call be taken. Nine members were present.

I. Board Chairman (Mr. Decker)

1) **Welcome Newest Board Member Mrs. Linda D. Curtis**

Chairman Decker welcomed Mrs. Curtis. She is currently the Hampton Commonwealth's Attorney but will be retiring soon. Mrs. Curtis thanked the Chairman for his comments and stated she looks forward to her experience with the Board.

2) **Board Motion to Approve November Board Minutes**

The Chairman called for a Motion to approve the November Board Minutes

By **MOTION** duly made by Reverend Paige and seconded by Mr. Osborne, the November Board Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Cabacoy, Osborne, Washington).

There were no questions and there was no discussion. The votes of Mr. Boshart, Mrs. Curtis and Reverend Paige were not considered as they were not present at the November Board meeting. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

II. Public/Other Comment (Mr. Decker)

King Salim Khalfani, Executive Director of the Virginia State Conference of the NAACP, appeared to address the Board regarding the Richmond City Jail project and his belief that the Richmond City Council had been misled regarding prior Board action relative to the jail project and wanted to bring this information to the attention of the Board. He asked the Board to seriously consider not approving what he described as a “leaning Tower of Babel.” He provided three separate handouts outlining his concerns, which were given to each Board member and which are included in the file. One was an analysis of the procurement process for the jail, one was a discussion on the unsolicited PPEA proposal and one was an analysis of the review of the jail construction contract procurement.

At the conclusion of his comments, he thanked the Board for its time and attention. There were some questions and comments from Board members after which Mr. Khalfani departed the meeting room. No action by the Board was required.

III. Presentation to the Board

Green/HVAC Jobs Training Program at Indian Creek – this item was moved to later in the Board meeting.

IV. Liaison Committee (Mr. Osborne)

There was no Liaison Committee meeting this month.

V. Administration Committee (Mr. Blank)

There was no Administration Committee meeting this month.

VI. Correctional Services Committee Report/Policy & Regulations (Mrs. Alksne)

1) Compliance and Accreditation Certifications Section: State/Local/Regional/Community Facilities

On behalf of the Committee, Mrs. Alksne presented the following certification recommendations for consideration by the Board:

- a) **Unconditional Certification for Mecklenburg County Jail and the Blue Ridge Regional Jail Authority Bedford Adult Detention Center as a result of 100% compliance;**

Unconditional Certification for the Chesapeake Correctional Center to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia;

and Unconditional Certification for the Lancaster County Jail.

By **MOTION** duly made by Mrs. Alksne and seconded by Mr. Osborne, the Board **APPROVED** the above recommendations by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

b) **Board Motion to Deny Appeal by Southside Regional Jail to Finding of Non-Compliance with Standard 6VAC15-40-835 (Sanctions) of the Minimum Standards for Jails and Lockups**

The Southside Regional Jail does not conduct hearings for violations for sentenced inmates that receive a 24-hour bunk restriction or loss of privileges for 24 hours. They do conduct hearings for those inmates who have not been sentenced. They cite *Sandin v. Conner*, 515 U.S. 472 (1995) and argue that if Southside Regional Jail is in compliance with federal constitutional standards, should not 6VAC15-40-835 be altered to reflect those same standards.

Despite a compelling argument by Superintendent Forsythe, the Committee disagreed and recommended the following:

By **MOTION** duly made by Mrs. Alksne and seconded by Mrs. Curtis:

“That the Board upholds the finding of non-compliance with reference to Standard 6VAC15-40-835 and requires Southside Regional Jail to prepare a Plan of Action to correct this deficiency.”

The Motion was **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington).

It was noted the facility is already in compliance with the Board Standard and will continue to follow it and will submit the required Plan of Action. There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

c) **Board Motion to Approve Revised Planning Study Redesign for the Richmond City Jail**

As a result of discussion during the November Board meeting, the design team has reworked the cell numbers and added the requisite cells to meet Board Standards, not ACA Standards. Staff is now comfortable that the design concept meets Board Standards.

The Planning Study proposes construction of a 932-bed replacement facility and renovation of an existing 100-bed dormitory for a total of 1,032 beds for the Richmond City Jail to house the inmate population of that locality. The design will

accommodate an average daily population of 1,300 inmates. Population forecasts indicate the facility will be overcrowded when it opens. The design team has taken this into consideration, and the design will make it easy to add additional pods, as needed. Future expansion plans include the utilization of an existing parking area on the property. The kitchen, laundry and other core facilities are being constructed to accommodate 1,800 inmates.

The facility is proposed as a six-story facility with 21 pods to hold all custody levels. The project includes administrative, visitation, intake/release, special purpose, medical, kitchen, inmate programs, storage, support areas and core sizing to accommodate the existing population and future needs.

The Community-Based Corrections Plan supporting the need for a 1,032-bed replacement and expansion was approved at the November, 2011, meeting of the Board.

A memorandum from the Compliance and Accreditation Unit regarding staffing based on the project's conceptual design and planned operating program describes the staffing for the proposed construction.

The project will undergo a Value Engineering Study at the end of the design development stage to further address cost and design efficiencies. The project's cost estimate has been reviewed. The plans have been redesigned to provide special-purpose beds in accordance with Standards and provide the proper number of single cells for maximum- and medium-security inmates.

Consideration has been given to future expansion, if ever needed, with the capability of adding another wing to the facility on the current site. Costs have increased slightly based on the redesign; however, are still well within the range of recent jails built in Virginia.

In support of these efforts and after review and discussion, the Committee makes the following recommendation to the Board:

By **MOTION** duly made by Mrs. Alksne and seconded by Mr. Osborne,

“The Board of Corrections approves the request from the City of Richmond for State jail funding for construction reimbursement for a 1,032-bed jail expansion and renovation. This approval recognizes a total eligible cost of \$124,955,019, of which up to 25% or \$31,238,755 would be the State reimbursement. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994) and Sections 53.1-80 through 82 of the Code of Virginia.”

The Motion was **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

There was a contingent of representatives from the City present at the meeting, several of whom thanked the Board and Department staff for their efforts toward getting this project approved. Then, the Chairman congratulated the group and wished them luck.

2) **Compliance and Accreditation Certifications Section:**
State/Local/Regional/Community Facilities

- a) Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards is attained in the jail's Triennial Certification Audit. Since the Board's last meeting, two jails have achieved 100% compliance with Board Standards. They are as follows: **Mecklenburg County Jail and the Blue Ridge Regional Jail Authority Bedford Adult Detention Facility.**

Therefore, by **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington:

"The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with 6VAC15-40 Minimum Standards for Jails and Lockups, approves suspension of the 2011 annual inspection for the Mecklenburg County Jail and the Bedford Adult Detention Center facility of the Blue Ridge Regional Jail."

The Motion was **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

3) **Policy & Regulations**

- a) **Proposed Board Motion to Approve Updates to Existing Board Policies**

These updates are proposed to correct Code references in existing Board policies, which led to a discussion about what the Board is supposed to be doing. Since the July Code change relating to its Powers and Duties, the Board is no longer clear about its role; it understands its responsibility for local facilities but does not understand its role with the Department. The Board takes its duties very seriously and wants to have a clear understanding of its purpose.

It was suggested to hold another Board Retreat and invite the Secretary and/or the Governor to give them an opportunity to tell the Board what its revised role is. Director Clarke agreed with the Board; clarity is very important. It was also suggested to have someone from the Governor's Commission on Government Reform and Restructuring to attend the Retreat to provide insight on how the changes made to the Board make it more effective and efficient, in keeping with the Commission's Mission "to put forth bold and innovative ideas to ensure that duplicative, outdated, unnecessary and ineffective services and service delivery methods are eliminated and that state revenues are dedicated to the core functions of government."

It was suggested to hold the Retreat in April or May at the Academy. Mrs. Alksne will work with Mrs. Lipp to plan this event. It was decided to table a vote on this item until the Board Retreat. No other Board action was required.

b) **Board Motion to Approve Request to Initiate Notice of Intended Regulatory Action (NOIRA) for 6VAC15-40 *Minimum Standards for Jails and Lockups* to Add Regulations Controlling Restraint of Pregnant Offenders**

As directed by the Board at its November meeting, the Agency Regulatory Coordinator will commence the formal process to add language regarding restraint of pregnant offenders to 6VAC15-40, *Minimum Standards for Jails and Lockups*.

Therefore, by **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington:

"The Board moves to initiate the regulatory process to add regulations controlling restraining of pregnant offenders to 6VAC15-40 *Minimum Standards for Jails and Lockups* by submitting a Notice of Intended Regulatory Action in accordance with the Virginia Administrative Process Act."

Mr. Blank enquired which specific language would be included as it was not attached to the information in the Board package. It was confirmed that the language as approved by the Board at its November meeting is the language that will be incorporated into the Standards.

Therefore, the Motion was **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no other questions and there was no other discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. The Motion carried.

VII. Presentation to the Board (Ms. Scott)

Green/HVAC Job Training Program at Indian Creek (Mr. Tom Young)

The Department and Johnson Controls have entered into several performance contracts since 2001. The concept is that costs associated with implementing the contracts are to be paid out of savings realized by implementation. The green learning lab is one of those contracts and supports the Governor's Re-Entry Plan.

Mr. Tom Young with the Department's Architectural and Engineering Services Unit spoke about the green learning lab at Indian Creek. He gave a brief PowerPoint presentation about the program, a hard copy of which is included in the file. He explained the performance contract project goals, financing options and elements. He then delved into the green learning lab training program itself. He stated this program is a novel approach to inmate training and illustrated the systems available at Indian Creek: commercial HVAC systems, radiant heat systems, residential heat pump systems, instantaneous water heaters and solar thermal systems. He showed photos of the green HVAC training center at Indian Creek. He stated the program will accommodate 15 offenders at one time and is a one-year program.

Mr. Young will be preparing responses to several specific questions posed by Mr. Blank. The Board then thanked Mr. Young for his enlightening presentation. No Board action is required.

VIII. Closed Session

There was no Closed Session this month.

IX. Other Business

Mrs. Woodhouse noted the November 21, 2012, Board meeting date will need to be changed as it is a State holiday. It was suggested to move the meeting to November 14, 2012. The Board agreed and as the 2012 meeting dates were already approved by a full vote of the Board at last month's meeting, another Board vote is not required for the change.

X. Board Member/Other Comment

Director Clarke spoke about the Mecklenburg closing and noted the press has accurately depicted the situation. The need for the closing is due to a budget shortfall and lost revenue from ending the out-of-state contract with Pennsylvania, which totaled \$20.3 million a year and there is no new money being allocated to make up for the loss. With the closing of Mecklenburg, inmates will be transferred to Green Rock after the contract inmates leave. Green Rock is a newer facility with more capacity and is less staff intensive and cheaper to operate. Green Rock can hold 300 more inmates than Mecklenburg. The Mecklenburg closing will occur by mid-May, 2012. The Director apologized to the Board for not notifying it prior to the announcement but noted this decision was not something controlled by the Department.

The Director noted the Department does not have enough resources and is facing an overall \$60 million deficit: \$26 million from ongoing utilities shortfalls, \$12 million in medical shortfalls and the \$20.3 million lost from the Pennsylvania contract. The Director stated it costs \$21.3 million to operate Mecklenburg and \$19 million to operate Green Rock. The remaining \$2-plus million will be diverted to programs previously funded by the Pennsylvania contract. The staff at Green Rock will be retained and employees from Mecklenburg will be placed using vacancies being held open for such contingencies. Money for severance packages will have to be identified, also.

Efficiency Study Results Affecting Board of Corrections (Ms. Scott)

The Department underwent an efficiency study during this past summer. This study addressed operational, organizational and fiscal efficiencies. A final report was published, and the Department has accepted some of the recommendations.

With reference to the Board, there was one recommendation which was to combine all jail review functions in one unit. Right now, Ms. Brooks Ballard is in A&E and Mr. Bill Wilson is in Compliance & Accreditation. It was recommended to bring these two positions under one Unit, and the Department concurs. However, Ms. Ballard pointed out that according to the Board Jails Standards, her position reports to the Division of Planning and Engineering, which does not exist and has not for some time.

The following Board of Corrections Standards reference the functions now assigned to the Architectural and Engineering Services Unit, previously identified as the Division of Planning and Engineering, Architecture and Design Unit. The Division and Unit no longer exist:

Page 5 of 76 §1.1 Definitions

Review Authority – is the Division of Planning and Engineering Services

Page 9 of 76 §2.1, B.2 Reimbursement Funding Requests

Directs planning studies to be submitted to the Department of Corrections, Division of Planning and Engineering, Architecture and Design Unit.

Page 16 of 76 §2.7 Requirement for Planning Study

Directs documents be made available upon request from the Department of Corrections, Division of Planning and Engineering, Architecture and Design Unit.

Page 29 of 76 §3.2B Construction Documents

Directs localities to submit construction documents to Department of Corrections, Division of Planning and Engineering, Architecture and Design Unit.

Page 31 of 76 §4.1 Methods of Reimbursement

Directs project documentation be submitted to Department of Corrections, Division of Planning and Engineering, Architecture and Design Unit.

Page 34 of 76 §4.4 **Treasury Board Reimbursement**

Directs that reimbursement information be submitted to Department of Corrections, Division of Planning and Engineering, Architecture and Design Unit.

Ms. Scott advised this is informational purposes only but wanted to advise the Board in case there were any questions or concerns. No Board action is required.

XI. Future Meeting Plans (provided for informational purposes)

The March, 2012, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 10:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

XII. Adjournment

There being nothing further, by **MOTION** duly made by Mr. Osborne, seconded by Reverend Paige and **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Curtis, Osborne, Paige, Washington), the meeting was adjourned.

There were no questions and there was no further discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There were three absences. The Motion carried.

PETER G. DECKER, III, CHAIRMAN

B. A. WASHINGTON, SR., SECRETARY